

Message Text

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12

ACTION ARA-10

INFO OCT-01 ISO-00 EB-07 L-02 FEA-01 AGR-05 CEA-01 CIAE-00

COME-00 DODE-00 FRB-03 H-01 INR-07 INT-05 LAB-04

NSAE-00 NSC-05 PA-01 RSC-01 AID-05 CIEP-01 SS-15

STR-01 TAR-01 TRSE-00 USIA-06 PRS-01 SP-02 OMB-01

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R 072124Z FEB 75

FM AMEMBASSY TEGUCIGALPA

TO SECSTATE WASHDC 9250

INFO AMEMBASSY SAN SALVADOR

AMEMBASSY GUATEMALA

AMEMBASSY MANAGUA

AMEMBASSY SAN JOSE

LIMITED OFFICIAL USE TEGUCIGALPA 0540

E.O. 11652: N/A

TAGS: ETRD, HO

SUBJECT: COUNTRY ELIGIBILITY FOR GENERALIZED PREFERENCES (GSP)

UNDER SECS. 502 (B) (4) AND (6) OF TITLE V OF THE TRADE ACT

OF 1974, HONDURAS

REF: STATE 024306

1. EMBASSY IS NOT AWARE OF ANY DISPUTES UNDER SEC. 502 (B) (4) AND (6) OF TITLE V OF THE TRADE ACT OF 1974 AFFECTING HONDURAN ELIGIBILITY FOR GENERALIZED PREFERENCES. THE HONDURAN LAWS UNDER WHICH CLAIMS OF EXPROPRIATION MIGHT MOST LIKELY DERIVE ARE DECREE 103, THE FORESTRY LAW OF 1974, AND DECREE 170, THE AGRARIAN REFORM LAW OF 1975. NO CLAIMS OF EXPROPRIATION, TO THE EMBASSY'S KNOWLEDGE, ARE CURRENTLY BEING PURSUED UNDER EITHER OF THESE TWO LAWS. THE POTENTIAL FOR SUCH SLAIMS, NONETHELESS, EXISTS. IT APPEARS TO THE LIMITED OFFICIAL USE

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EMBASSY THAT AN ADDITIONAL CRITERION IS NECESSARY AS A

PRACTICAL MATTER WHEN CONSIDERING THE ELIGIBILITY OF THE COUNTRY UNDER THE NATIONALIZATION AND ARBITRATION PROVISIONS OF THE TRADE ACT OF 1974, I.E., THAT THE U.S. CITIZEN FORMALLY MAKE KNOWN HIS CLAIM OF EXPROPRIATION WITHOUT FAIR COMPENSATION TO A U.S. AGENCY SUCH AS THE EMBASSY OR THE DEPARTMENT OF STATE.

2. A REVIEW OF EMBASSY REPORTING DURING 1974 CONCERNING THE ENACTMENT AND APPLICATION OF DECREE 103 WILL INDICATE THE EXTENSIVE EFFORTS OF THE EMBASSY AND THE HONDURAN STATE FORESTRY AGENCY (COHDEFOR) TO AVOID CLAIMS OF EXPROPRIATION THROUGH SEEKING HONDURAN ADMINISTRATIVE ACCOMMODATION TO THE INTERESTS OF INVOLVED U.S. CITIZENS. TO DATE, WE BELIEVE THE EFFORTS WERE SUCCESSFUL. LACKING NOTIFICATION OF EXPROPRIATION WITHOUT JUST COMPENSATION BY A U.S. CITIZEN WITH STANDING TO MAKE SUCH A CLAIM, WE MUST ASSUME THAT ADMINISTRATIVE ARRANGEMENTS AGREED BY THE CITIZEN AND THE GOVERNMENT HAVE BEEN SUFFICIENT TO CONSTITUTE "FAIR COMPENSATION," LEAVING ASIDE THE QUESTION AS TO WHETHER EXPROPRIATION IN FACT OCCURRED.

3. ON THE OTHER HAND, HYPOTHETICALLY, THE EMBASSY MAY BE AWARE OF AN EXPROPRIATORY ACTION FOR WHICH COMPENSATION IS CONSIDERED NOT FAIR, BUT NONETHELESS WAS SATISFACTORY TO THE U.S. CITIZEN FOR REASONS KNOWN ONLY TO HIM. IN SUCH A CASE IT IS OUR BELIEF THAT NO CLAIM OF EXPROPRIATION WITHOUT FAIR COMPENSATION CAN BE RAISED UNDER THE PROVISIONS OF THE TRADE ACT OF 1974 BY THE EMBASSY OR OTHERS KNOWLEDGEABLE OF THE CONDITIONS, BUT WITHOUT STANDING.

4. UNDER THE AGRARIAN REFORM LAW OF 1975 AND ITS PRECURSORS, ESPECIALLY DECREE 8 OF 1972, THE EMBASSY IS AWARE OF A CASE (MISION LA BUENA FE NEAR LAKE YOJOA) WHERE AN AMERICAN CITIZEN HAS A POTENTIAL TO CLAIM EXPROPRIATION POSSIBLY WITHOUT FAIR COMPENSATION. AS IN THE CASE OF DECREE 103, HOWEVER, NO SUCH CLAIM HAS BEEN PRESENTED TO THE EMBASSY.

5. UNDER THE AGRARIAN REFORM LAW OF 1975 A BROAD RANGE OF POTENTIAL CLAIMS EXISTS. CLEARLY THE LAW INTENDS NATIONALIZATION OF CERTAIN PROPERTIES OF BOTH UNITED BRANDS AND LIMITED OFFICIAL USE

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STANDARD FRUIT CO. AT SOME POINT IN THE FUTURE. HOLDINGS OF OTHER U.S. CITIZENS WILL LIKEWISE BE INVOLVED. HOWEVER, UNTIL SUCH TIME AS THE SPECIFIC ACTS OF EXPROPRIATION OCCUR AND FAILURE TO PROVIDE FAIR COMPENSATION IS DETERMINED (AND WE HAVE SUGGESTED ABOVE THAT AN ADDITIONAL CRITERIA IS IMPLIED, I.E., COMPLAINT IS FORMALLY RAISED BY THE U.S. CITIZEN TO THE U.S.G.) NO CURRENT CASES OF EXPROPRIATION UNDER THE CITED SECTIONS ARE KNOWN WHICH WOULD MAKE HONDURAS

INELIGIBLE FOR GENERALIZED PREFERENCES.
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